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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,116	09/09/2003	William Kevin Brewster	34003	2115

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EXAMINER

THOMPSON, HUGH B

ART UNIT PAPER NUMBER

3634

DATE MAILED: 09/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/605,116

Applicant(s)

BREWSTER, WILLIAM KEVIN

Examiner

Hugh B. Thompson II

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-8,13,14,17,18,21-24,29,34-43 and 45 is/are rejected.
- 7) ☒ Claim(s) 3,4,9-12,15,16,19,20,25-28,30-33 and 44 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13-15 and 30-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With respect to claims 13 and 30, there is no antecedent basis for "the surface engaging surface".

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5, 13, 17, 18, and 21, are rejected under 35 U.S.C. 102(b) as being anticipated by Glover #1,624,945. Glover discloses a ladder stabilizer/extension assembly comprised of ladders connectors 16, a shiftable member 8 that is supported on the connectors, and which receives ground-penetrating stake 9 that has a tip 10, and plate 11 that is coupled to the member through the stake.

Claims 37, 38, 41, 42, and 45 are rejected under 35 U.S.C. 102(b) as being anticipated by Noga #5,307,900. Noga discloses a ladder support assembly comprised of ladder connector 29, that telescopically receives shiftable member 13, apertures 35, securing pins 20, a circular

surface engaging pad 16a attached to 13 by means of threaded rod 26 that is threadedably received within 13 at one end, and the rod having a universal connection 24, 25 (ball) secured at its other end to the base of 16a.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-8, 14, 22-24, and 34-36, and 40, are rejected under 35 U.S.C. 103(a) as being unpatentable over Glover and Noga, respectively, as advanced above. Glover or Noga fail to disclose specific dimensions of the stake, plate, a second extension assembly, and distances between the fixable positions of the stakes. The dimensioning of assembly components and relative distances, is an obvious design choice not expected to produce any new and unexpected results. Multiple extension assemblies, is a duplication of parts, not expected to produce any new and unexpected results. Therefore, to one of ordinary skill in the art, it would have been obvious, as a matter of engineering design choice, to provide the specific dimensions as claimed for the stake and plate of Glover or Noga, and a second extensions assembly for Glover, this being no more than a duplication of parts, not expected to produce any new and unexpected results.

Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Noga as applied to claims 37, 38, 41, 42, and 45 above, and further in view of Krahling #4,773,805. Noga fails to disclose a securing pin having a clip interconnected the pin by means of a flexible cable, i.e., a chain. Krahling teaches the utility of a securing assembly 10 comprised of a pin 12, clip 20 and

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chain 30, this arrangement allowing for secure attachment of the assembly through aligned apertures, so as to retain two elements therebetween. Therefore, to one of ordinary skill in the art, it would have been obvious, as a matter of engineering design choice, to provide the securing assembly of Noga with a securing pin as taught by Krahling, so as to allow for secure attachment of the assembly through aligned apertures, so as to retain two elements therebetween.

### ***Allowable Subject Matter***

Claims 3, 4, 9-12, 15, 16, 19, 20, 25-29, 30-33, and 44 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The primary reason for the allowable subject matter of claims 3, 15, and 19 is the inclusion of the stake having a threaded upper portion received within a threaded portion of the shiftable member. For claim 9, it is the inclusion of the connector and member being slidably interconnected with aligned holes for receiving pins to secure the connector and member to one another. For claims 16 and 33, it is the inclusion of the member interchangeably receiving the pad or stake. For claim 25, it is the inclusion of the shiftable member fixedly attached to the stake. For claim 29, it is the inclusion of the attachment assembly having a spacer and clamping plate secured together on opposed sides of the stile. For claim 30, it is the inclusion of the plate attached to the attachment assembly.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Anderson #2,581,782, Baumann #3,791,487, Batten #4,423,797, Huang #4,671,383,

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Arthurs et al #4,722,420, Grove #4,792,017, Foradori #4,836,331, Saby et al #4,907,675, Derome #5,027,923, and Molitor #5,551,529 are cited to teach ladder support assemblies.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hugh B. Thompson II whose telephone number is (703) 305-0102. The examiner can normally be reached on Monday thru Friday 9 am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (703) 308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hugh B. Thompson II  
Primary Examiner  
Art Unit 3634

September 21, 2004

HUGH B. THOMPSON II  
PRIMARY EXAMINER  
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